

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

tmd3574/mrm
August 9, 2018
09:30 AM

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IN RE:

Case No. 818-73427-LAS

ALEXANDRO BARTOLI,
A/K/A ALEX BARTOLI

Hon. LOUIS A. SCARCELLA

NOTICE OF MOTION

Debtor.
=====X

PLEASE TAKE NOTICE, that upon the within application, Marianne DeRosa, Chapter 13 Trustee will move this court before the Hon. Louis A. Scarcella, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, at 290 Federal Plaza, Room 763, Central Islip, New York, 11722, on August 9, 2018 at 09:30 AM or as soon thereafter as counsel can be heard, for an order pursuant to 11 U.S.C. 1307(c) dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Responsive papers shall be filed with the bankruptcy court and served upon the Chapter 13 Trustee, Marianne DeRosa, Esq., no later than seven (7) business days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: Jericho, New York
July 20, 2018

/s/ Marianne DeRosa
MARIANNE DeROSA, TRUSTEE
125 JERICHO TURNPIKE; STE 105
JERICHO, NY 11753
(516) 622-1340

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IN RE:

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ALEXANDRO BARTOLI,
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Hon. LOUIS A. SCARCELLA

APPLICATION

Debtor.

=====X

TO THE HONORABLE LOUIS A. SCARCELLA U.S. BANKRUPTCY JUDGE:

MARIANNE DEROSA, Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on May 21, 2018, and, thereafter, MARIANNE DEROSA was duly appointed and qualified as Trustee.

2. On May 21, 2018, in part 5 of the petition, the Debtor certified that a briefing from an approved credit counseling agency had been received within the 180 days prior to the filing of the bankruptcy petition, but did not have the certificate available to file with the Court.

3. A review of the Court's docket indicates that the Court did not enter an Order extending the time for the Debtor to obtain and file the Certificate of Credit Counseling. Moreover, as of the date of this application the Debtor has failed to file a Certificate of Credit Counseling from an approved nonprofit budget credit counseling agency as required by 11 U.S.C. § 521(b)(1).

4. Additionally, the Debtor has failed to comply with 11 U.S.C. §521(a)(1) and Bankruptcy Rule 1007(b) in that the following required documents have not been filed:

- a. copies of all payment advices or other evidence of payment for last 60 days before the date of the filing of the petition by the Debtor from any employer of the Debtor pursuant to 11 U.S.C. §521(a)(1)(B)(iv).

5. Furthermore, the Debtor has failed to:

- a. commence making Chapter 13 Plan payments to the Trustee as required by 11 U.S.C. § 1326(a)(1); and

- b. file a Chapter 13 Plan, pursuant to by 11 U.S.C §1321 and Fed. R. Bankr. P. 3015(b); and

- c. provide the Trustee with a copy of a federal income tax return or transcript for the most recent year, 7 days before first meeting of creditors pursuant to 11 U.S.C. §521(e)(2)(A)(i); and

- d. provide the Trustee with disclosure documentation as required by E.D.N.Y LBR 2003-1; and

- e. appear and be examined at the Section 341 Meeting of Creditors as required by 11 U.S.C. §343.

6. The Debtor's failure to provide these items impedes the Trustee's ability to administer this case and, therefore, is a default that is prejudicial to the rights of the creditors of the Debtor pursuant to 11 U.S.C. §1307(c)(1).

7. Each of the foregoing constitutes cause to dismiss this Chapter 13 case within meaning of 11 U.S.C. §1307(c).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Dated: Jericho, New York
July 20, 2018

s/Marianne DeRosa
Marianne DeRosa
Chapter 13 Trustee

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X Case No: 818-73427-LAS
IN RE:

ALEXANDRO BARTOLI
A/K/A ALEX BARTOLI

CERTIFICATE OF SERVICE
BY MAIL

Debtor.

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This is to certify that I, Matthew R. Matz, have this day served a true, accurate and correct copy of the within Notice of Motion and Application by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

ALEXANDRO BARTOLI
15 CONLON ROAD
ROOSEVELT, NY 11575

This July 20, 2018

/s/Matthew R. Matz
Matthew R. Matz, Paralegal
Office of the Standing Chapter 13 Trustee
Marianne DeRosa, Esq.
125 Jericho Turnpike; Suite 105
Jericho, NY 11753
(516) 622-1340

CASE NO: 818-73427-LAS
Hon. LOUIS A. SCARCELLA

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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IN RE:

ALEXANDRO BARTOLI
A/K/A ALEX BARTOLI

Debtor.

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NOTICE OF MOTION AND APPLICATION TO DISMISS CASE

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MARIANNE DeROSA, TRUSTEE
125 JERICHO TURNPIKE; SUITE 105
JERICHO, NY 11753
(516) 622-1340